

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jayvee Rhoda	Team: Team # 1	CCRB Case #: 201308931	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 09/23/2013 3:50 PM	Location of Incident: 22-36 31st Street	Precinct: 114	18 Mo. SOL 3/23/2015	EO SOL 3/23/2015	
Date/Time CV Reported Tue, 09/24/2013 12:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/24/2013 12:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SDS Daniel Gervasio	04650	915783	WARRSEC
2. LCD Leonard Servedio	00000	886503	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Sheldon Franklyn	27179	933786	QNROBSQ

Officer(s)	Allegation	Investigator Recommendation
A.LCD Leonard Servedio	Force: LT Leonard Servedio used physical force against § 87(2)(b)	
B.SDS Daniel Gervasio	Force: SGT Daniel Gervasio used physical force against § 87(2)(b)	
C.SDS Daniel Gervasio	Discourtesy: SGT Daniel Gervasio spoke discourteously to § 87(2)(b)	

Case Summary

On September 23, 2013, at approximately 3:50 p.m., § 87(2)(b) exited a Cohen's eyeglasses store located at 22-19 31st Street in Queens. § 87(2)(b) was wanted by the police for his involvement in prior unrelated incidents. § 87(2)(b) crossed to the other side of 31st Street, on his way to the Ditmars Boulevard train station. When he reached the parked vehicles on the other side of the street, § 87(2)(b) heard the screeching tires of a vehicle behind him. SGT Daniel Gervasio, of the Regional Fugitive Task Force, exited the vehicle, which was an unmarked SUV. § 87(2)(b) continued walking towards the sidewalk, with the intention of turning himself in once he reached the sidewalk. When § 87(2)(b) reached the edge of the sidewalk, in front of 22-36 31st Street, LT Leonard Servedio, of the Regional Fugitive Task Force, wrapped his arms around § 87(2)(b)'s body and allegedly threw him to the ground (**Allegation A**). LT Servedio put his knee on top of § 87(2)(b)'s back and allegedly pushed § 87(2)(b)'s head downwards into the pavement once. SGT Gervasio allegedly punched § 87(2)(b) several times on his left ear (**Allegation B**). Shackles were placed on § 87(2)(b)'s arms and legs, and he was placed inside SGT Gervasio's vehicle. As he was being placed inside the vehicle, SGT Gervasio allegedly said, "You're a real piece of shit," to § 87(2)(b) (**Allegation C**). § 87(2)(b) was transported to the 114th Precinct stationhouse for arrest processing.

Mediation, Civil, and Criminal Histories

This case was not eligible for mediation since § 87(2)(b) was arrested. On January 14, 2015, a FOIL request was sent to the New York City Comptroller's Office and the status of a Notice of Claim for § 87(2)(b) is pending. § 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer Histories

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (encl. 5a, 6a).
- SGT Gervasio has been a member of the service for 19 years and there is one substantiated CCRB allegation against him for entry and search of premises in case 200610157, for which he received no disciplinary action from the NYPD (encl. 3a-3b).
- LT Servedio has been a member of the service for 30 years and there are three substantiated allegations against him for physical force, abuse of authority- other, and discourtesy- word, in case 9301181 (encl. 4a). The CCRB recommended command discipline for two of the charges and no discipline for one charge. At trial, the NYPD found LT Servedio not guilty of all charges on February 8, 1995 (encl. 4b).

Findings and Recommendations

Explanation of Subject Officer Identification

SGT Gervasio and LT Servedio acknowledged interacting with § 87(2)(b)

Allegations Not Pleaded

§ 87(2)(b) stated that he thought he saw an officer kick § 87(2)(b) several times on his head or collar bone area (encl. 9b). § 87(2)(g) § 87(2)(b) did not allege that an officer kicked him, § 87(2)(g)

Recommendations

Allegation A- Force: LT Leonard Servedio used physical force against § 87(2)(b)

Allegation B- Force: SGT Daniel Gervasio used physical force against § 87(2)(b)

It is not in dispute that § 87(2)(b) was taken down to the ground by LT Servedio and would not give up his hands when officers instructed him to do so. It is also not in dispute that § 87(2)(b) was punched multiple times by SGT Gervasio. § 87(2)(b) stated that once on the ground, SGT Gervasio punched him multiple times on his left ear (encl. 10b-10c).

LT Servedio and SGT Gervasio were both assigned to the apprehension efforts of § 87(2)(b) and were actively looking for him prior to this incident. Both officers had photographs of § 87(2)(b) and they were aware that § 87(2)(b) was a violent felon with a warrant out for his arrest. LT Servedio stated that he took § 87(2)(b) to the ground only after § 87(2)(b) attempted to flee. SGT Gervasio stated that he punched § 87(2)(b) several times on his neck and shoulder area because § 87(2)(b) refused to give up his arms. § 87(2)(g)

Patrol Guide Procedure 203-11 states that police officers must “use minimum necessary force” when effecting an arrest (encl. 2a-2b).

§ 87(2)(g)

Allegation C- Discourtesy: SGT Daniel Gervasio spoke discourteously to § 87(2)(b)

§ 87(2)(b) allegedly heard SGT Gervasio say, “You’re a real piece of shit,” to him as he was being placed inside a police vehicle (encl. 10c).

SGT Gervasio did not recall saying this to § 87(2)(b) during the incident (encl. 15f). LT Servedio denied saying this and did not recall if SGT Gervasio said it (encl. 16g).

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date